



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SV

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/441,035 11/16/99 PRULLAGE

J 18794-000400

┌

PM82/0112

└

EXAMINER
----------

JOSEPH R SNYDER  
TOWNSEND AND TOWNSEND AND CREW LLP  
TWO EMBARCADERO CENTER 8TH FLOOR  
SAN FRANCISCO CA 94111-3834

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED:

01/12/01

5

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/441,035**

Applicant(s)

Prullage

Examiner

**Kurt Rowan**

Group Art Unit

**3643**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-34 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-34 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3643

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the attractant reservoir must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims must be in a single sentence form only. "The reservoir..." should be deleted.

Art Unit: 3643

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 12, 26-27 31, 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfeiffer.

The patent to Pfeiffer shows an insect bait station for attracting and killing insects such as flies having a body 15 with an external groove 17. In reference to claim 12, Pfeiffer discloses hanger members in lines 76-85 of page 2.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-11, 13-25, 28-30, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeiffer as applied to claim 1 above, and further in view of Conlee.

Art Unit: 3643

The patents to Pfeiffer and Conlee show insect bait stations. Pfeiffer shows a conical shape and has been discussed above. Conlee shows a cylindrical body. In reference to claims 2-3, 29, 32, it would have been obvious to form the body of Pfeiffer as a cylinder as shown by Conlee since merely one equivalent shape is being substituted for another. In reference to claims 4, 6, 7, 11, Pfeiffer shows an elongated circumferential spiral groove that has a height at least two times larger than the width of the groove. In reference to claim 8, Pfeiffer shows a plurality of grooves 17b in Fig. 11. In reference to claims 9-10, Conlee does not disclose the size of the cylinder, but it would have been obvious to make the cylinder with a diameter from about 1/4 inches to about 2 inches and about 6 inches to about 18 inches in length since the size would be determined through routine experimentation. In reference to claims 13-14, neither Pfeiffer or Conlee disclose how the bait stations are made. However, it would have been obvious to extrusion mold or injection mold the bait station since both molding methods are old and well known in the art. The examiner takes Official Notice that extrusion molding and injection molding are old and well known. In reference to claims 15-19, Pfeiffer and Conlee do not disclose the insecticide or pesticide used, but it would have been obvious to employ an known fast acting pesticide such as phenyl pyrazole. However, Pfeiffer discloses a viscous liquid. In reference to claims 20, 21, 23, Conlee discloses a pest attractant reservoir for a pheromone 8 inside the body. In reference to claim 22, it would have been obvious to provide Pfeiffer with an attractant affixed to the hanger since the location of the attractant is a matter of design choice since the function is the same. In reference to claim 24, Pfeiffer and Conlee do not disclose

Art Unit: 3643

feeding attractants, but it would have been obvious to employ a feeding attractant since merely one attractant is being substituted for another. The examiner takes Official Notice that feeding attractants are old and well known. In reference to claim 25, Pfeiffer and Conlee do not disclose a cylinder sheath to store and transport the bait station, but it would have been obvious to employ a cylindrical sheath to transport the bait station so the poison does not come into contact with nontarget species. In reference to claim 28, Pfeiffer shows several different groove configurations such as a spiral groove and a plurality of horizontal grooves vertically aligned. It would have been obvious to employ a plurality of vertical grooves since the exact groove structure is a matter of design choice to be determined by routine experimentation. In reference to claim 30, both Pfeiffer and Conlee do not disclose the groove area as a percent of the total surface area of the external surface, but it would have been obvious to employ a 30 percent groove area since the groove area would be determined through routine experimentation.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Chrysanthis, Antonali, Patton, Asher, Moore, Grant, Epstein, and Abadie show other insect traps and bait stations.

10.

Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

January 10, 2001